

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

FELICIA WATSON, on behalf of herself  
and all others similarly situated,

Plaintiff,

vs.

SUFFOLK FEDERAL CREDIT UNION,

Defendant.

Civil Action No. 20-cv-1531

**DEFENDANT SUFFOLK FEDERAL CREDIT UNION'S  
MOTION TO DISMISS PLAINTIFF'S CLASS ACTION COMPLAINT**

Pursuant to Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6), Defendant Suffolk Federal Credit Union (“Suffolk”) moves this Court to dismiss Plaintiff Felicia Watson’s Class Action Complaint due to the Court’s lack of subject matter jurisdiction and for failure to state a claim, as set forth in Defendant’s accompanying memorandum of law in support of this motion. This Court lacks subject matter jurisdiction over Plaintiff’s claims because her state-law claims are preempted by federal law. Additionally, Plaintiff fails to plead a viable cause of action against Suffolk because the operative contract plainly and unambiguously allows Suffolk to assess an NSF Fee “*on any day*” the funds available in a member’s account are not sufficient to pay the full amount of a debit transaction.

WHEREFORE, Defendant respectfully requests that this Court enter an Order: (a) granting its Motion to Dismiss Plaintiff’s Class Action Complaint; (b) dismissing Plaintiff’s Class Action Complaint with prejudice; and (c) granting Defendant such other and further relief as appropriate.

Dated: August 10, 2020

Respectfully submitted,

**SUFFOLK FEDERAL CREDIT UNION**

/s/ Brian S. Gitnik

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on August 10, 2020, the foregoing document with exhibits, if any, was filed with the Clerk of this Court via the CM/ECF system, which will send notification of such filing to all parties of record.

/s/ Brian S. Gitnik  
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